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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/342,719	06/29/1999	DONALD C. ROE	7590Q	6995

27752 7590 05/18/2006

THE PROCTER & GAMBLE COMPANY  
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CINCINNATI, OH 45224

EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/342,719	ROE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	C. Lynne Anderson	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28-32, 34-37, 40-44, 47, 48 and 58-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-32, 34-37, 40-44, 47, 48 and 58-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect have been considered but are moot in view of the new ground(s) of rejection made in view of Al-Sabah (5,868,723).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28-32, 34-37, 40-44, 47-48, and 58-60 are rejected under 35 U.S.C. 103(a) as being obvious over McIver et al. (6,066,673) in view of Al-Sabah (5,868,723).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer

in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

With respect to claims 28 and 58, McIver discloses all aspects of the claimed invention with the exception of a sensor. McIver discloses a disposable article adapted to be worn by a wearer, as described in the abstract, comprising one or more compositions for enhancing the removability of fecal waste from the skin of a wearer. The one or more compositions are available to at least a portion of one of said fecal waste and said skin of said wearer, and said disposable article is a diaper, as described in column 58, lines 6-9. The one or more compositions provide one or more of the following as determined by the test methods set forth in the instant specification: (a) a Waste Contamination Area of less than about 15 cm<sup>2</sup>; and (b) a Waste Contamination Mass of less than about 14 mass units, as described in column 75, lines 29-37. McIver discloses, in column 75, lines 29-37, the incorporation of carboxymethyl cellulose into the cover of an absorbent article, which, as disclosed on page 55 of the instant specification, yields the claimed test results. The absorbent article of McIver therefore fulfills all claimed limitations.

Al-Sabah teaches the use of a sensor comprising an acoustic transducer 29 and an actuator 43, as shown in figure 7. The actuator performs a responsive function when the sensor detects an input, as described in the Abstract. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the article of McIver

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with a sensor, as taught by Al-Sabah, to provide means for alerting the user to the presence of waste material.

With respect to claims 29-32 and 40-42, McIver discloses, in column 75, lines 29-37, the incorporation of carboxymethyl cellulose into the cover of an absorbent article, which, as disclosed on page 55 of the instant specification, yields the claimed test results. The absorbent article of McIver therefore fulfills all claimed limitations.

With respect to claims 43 and 44, McIver discloses, in column 58, line 62 through column 59, line 14, an ionic complexing agent such as zinc oxide.

With respect to claims 34 and 59, McIver discloses, in column 4, line 10 through column 6, line 35, an effective concentration of a feces modifying agent.

With respect to claims 35-37 and 60, McIver discloses, in column 58, line 25 through column 59, line 39, a skin care composition such as petrolatum.

With respect to claims 47 and 48, McIver discloses, in column 58, lines 25-53 and column 69, line 53 through column 71, line 5, a feces modifying agent disposed on the article as an individual discrete element.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

cla  
May 14, 2006

TATYANA Z. YAKOVLEVNA  
TATYANA  
SUPERVISOR  
SUPERVISOR  
EXAMINER

ISO 9001:2015